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UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Isela Quintana,

Plaintiff,

vs.

C.T.C Cleaning Services LLC, an
Arizona limited liability company, and
Carlos Toro and Jane Doe Toro, a
Married Couple,

Defendant.

No.

VERIFIED COMPLAINT

Plaintiff, Isela Quintana (“Plaintiff” or “Isela Quintana”), sues the Defendants, C.T.C. Cleaning Services LLC (“C.T.C Cleaning Services”), and Carlos Toro and Jane Doe Toro (collectively, all Defendants are referred to as “Defendants”), and alleges as follows:

PRELIMINARY STATEMENT

1. This is an action for unpaid minimum and overtime wages, liquidated damages, attorneys’ fees, costs, and interest under the Fair Labor Standards Act (“FLSA”), 29 U.S.C. § 201, et seq.; unpaid minimum wages under the Arizona Minimum

1 Wage Act (“AMWA”), Arizona Revised Statutes (“A.R.S.”) Title 23, Chapter 2, Article
2 8; and unpaid wages under the Arizona Wage Act (“AWA”), A.R.S. Title 23, Chapter 2,
3 Article 7.

4 2. The FLSA was enacted “to protect all covered workers from substandard
5 wages and oppressive working hours.” Barrentine v. Ark Best Freight Sys. Inc., 450 U.S.
6 728, 739 (1981). Under the FLSA, employers must pay all non-exempt employees a
7 minimum wage of pay for all time spent working during their regular 40-hour
8 workweeks. See 29 U.S.C. § 206(a). Under the FLSA, employers must pay all non-
9 exempt employees an overtime rate of pay for all time spent working in excess of 40 hours
10 in a given workweek. See 29 U.S.C. § 207(a).

13 3. The AMWA, A.R.S. § 23-363, et seq., establishes a minimum wage within
14 the State of Arizona.

15 4. The AWA, A.R.S. § 23-350, et seq., establishes standards for wage
16 payments to employees within the State of Arizona.

18 **JURISDICTION AND VENUE**

19 5. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 and
20 29 U.S.C. § 201, *et seq.* because this civil action arises under the Constitution and law of
21 the United States. This Court also has subject matter jurisdiction pursuant 28 U.S.C. §
22 1367 because the state law claims asserted herein are so related to claims in this action
23 over which this Court has subject matter jurisdiction that they form part of the same case
24 or controversy under Article III of the United States Constitution.
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1 employment with Defendants. As a person who acted in the interest of Defendants in
2 relation to the company's employees, Defendant C.T.C. Cleaning Services LLC is subject
3 to liability under the FLSA.

4 11. Defendants Carlos Toro and Jane Doe Toro are, upon information and
5 belief, husband and wife. They have caused events to take place giving rise to the claims
6 in this Complaint as to which their marital community is fully liable. Defendants Carlos
7 Toro and Jane Doe Toro are owners of Defendant C.T.C Cleaning Services LLC and
8 were at all relevant times Plaintiff's employers as defined by the FLSA, 29 U.S.C. §
9 203(d).
10

11 12. Under the FLSA, Defendants Carlos Toro and Jane Doe Toro are
12 employers. The FLSA defines "employer" as any person who acts directly or indirectly
13 in the interest of an employer in relation to an employee. At all relevant times, Carlos
14 Toro and Jane Doe Toro had the authority to hire and fire employees, supervised and
15 controlled work schedules or the conditions of employment, determined the rate and
16 method of payment, and maintained employment records in connection with Plaintiff's
17 employment with Defendant C.T.C Cleaning Services. As persons who acted in the
18 interest of Defendants in relation to the company's employees, Defendants Carlos Toro
19 and Jane Doe Toro are subject to individual liability under the FLSA.
20
21

22 13. Plaintiff is further informed, believes, and therefore alleges that each of the
23 Defendants herein gave consent to, ratified, and authorized the acts of all other
24 Defendants, as alleged herein.
25
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1 14. Defendants, and each of them, are sued in both their individual and
2 corporate capacities.

3 15. Defendants are jointly and severally liable for the injuries and damages
4 sustained by Plaintiff.
5

6 16. At all relevant times, Plaintiff was an “employee” of Defendants as defined
7 by the FLSA, 29 U.S.C. § 201, *et seq.*

8 17. The provisions set forth in the FLSA, 29 U.S.C. § 201, *et seq.*, apply to
9 Defendants.
10

11 18. At all relevant times, Defendants were and continue to be “employers” as
12 defined by the FLSA, 29 U.S.C. § 201, *et seq.*

13 19. The provisions set forth in the A.R.S. Title 23, Articles 7 and 8 apply to
14 Defendants.
15

16 20. At all relevant times, Plaintiff was an “employee” of Defendants as defined
17 by A.R.S. § 23-362.

18 21. At all relevant times, Defendants were and continue to be “employers” of
19 Plaintiff as defined by A.R.S. § 23-362.
20

21 22. Defendants individually and/or through an enterprise or agent, directed and
22 exercised control over Plaintiff’s work and wages at all relevant times.

23 23. On information and belief, Plaintiff, in her work for Defendants, was
24 employed by an enterprise engaged in commerce that had annual gross sales of at least
25 \$500,000.
26
27

1 33. Plaintiff, in her work for Defendants, generally worked in excess of 40
2 hours per week without being paid overtime for such time.

3 34. Plaintiff, in her work for Defendant, generally worked approximately 98
4 hours per week without being paid overtime for such time.

5 35. Rather than classify Plaintiff as an employee, Defendants classified her as
6 an independent contractor.

7 36. Despite Defendants having misclassified Plaintiff as an independent
8 contractor, Plaintiff was actually an employee, as defined by the FLSA, 29 U.S.C. § 201
9 et seq.
10

11 37. Defendants controlled Plaintiff's schedules.

12 38. In her work for Defendants, Plaintiff used equipment owned by Defendants.

13 39. At all relevant times, Plaintiff was economically dependent on Defendants.

14 40. The following further demonstrate that Plaintiff was an employee:
15

16 a. Defendants had the exclusive right to hire and fire Plaintiff;

17 b. Defendants made the decision not to pay overtime to Plaintiff;

18 c. Defendants supervised Plaintiff and subjected her to their rules;

19 d. Plaintiff had no opportunity for profit or loss in the business;

20 e. The services rendered by Plaintiff in her work for Defendants was
21 integral to Defendants' business;

22 f. Plaintiff was hired as a permanent employee, generally working in
23 excess of 40 hours per week for more than two years;

24 g. Plaintiff had no right to refuse work assigned to her by Defendants;
25
26
27

1 h. Defendants did not allow her to work for other cleaning companies.

2 41. Plaintiff worked for Defendants until approximately October 25, 2022.

3 42. During Plaintiff's employment with Defendants, Plaintiff typically worked
4 approximately 98 hours per week.

5 43. For her final two months of work, Defendants failed to compensate Plaintiff
6 any wages whatsoever for any time that she worked.

7 44. As such, Defendants failed to compensate Plaintiff any wages whatsoever
8 for the final approximately nine workweeks she worked for them.

9 45. Therefore, for the final approximately nine workweeks that Plaintiff
10 worked for Defendants, Defendants paid Plaintiff no wages whatsoever.

11 46. Defendants did not compensate Plaintiff one and one-half times her regular
12 rate of pay for all hours worked in excess of 40 hours in a workweek.

13 47. As a result of Defendants' willful failure to compensate Plaintiff any
14 overtime wage whatsoever for the hours she worked in excess of 40 hours in a given
15 workweek, Defendants violated 29 U.S.C. § 207(a).

16 48. As a result of not having paid any wage whatsoever to Plaintiff for her final
17 approximately nine workweeks with Defendants, Defendants failed to pay the applicable
18 minimum wage to Plaintiff.

19 49. As a result of Defendants' willful failure to compensate Plaintiff the
20 applicable minimum wage for such hours worked, Defendants violated 29 U.S.C. §
21 206(a).

1 50. As a result of Defendants' willful failure to compensate Plaintiff the
2 applicable minimum wage for such hours worked, Defendants violated the AMWA,
3 A.R.S. § 23-363.

4 51. As a result of Defendant's willful failure to compensate Plaintiff her wages
5 for such hours worked, Defendant violated the AMWA, A.R.S. § 23-350, et seq.
6

7 52. Plaintiff was a non-exempt employee.

8 53. Plaintiff was not a manager in his work for Defendants.

9 54. Plaintiff did not have supervisory authority over any employees in her work
10 for Defendants.
11

12 55. Plaintiff did not possess the authority to hire or fire employees in her work
13 for Defendants.

14 56. Plaintiff did not possess the authority to make critical job decisions with
15 respect to any of Defendants' employee in her work for Defendants.
16

17 57. Plaintiff did not direct the work of two or more employees in her work for
18 Defendants.

19 58. Plaintiff did not exercise discretion and independent judgment with respect
20 to matters of significance in her work for Defendants.
21

22 59. Plaintiff did not perform office or non-manual work for Defendants in her
23 work for Defendants.

24 60. Plaintiff's primary duty was not the management of the enterprise in which
25 she was employed or any recognized department of the enterprise in her work for
26 Defendants.
27

1 61. Defendants refused and/or failed to properly disclose to or apprise Plaintiff
2 of her rights under the FLSA.

3 62. Plaintiff is a covered employee within the meaning of the FLSA.

4 63. Defendants knew that – or acted with reckless disregard as to whether –
5 their failure to pay Plaintiff the proper minimum wage or overtime rate would violate
6 state law, and Defendants were aware of the FLSA minimum wage and overtime
7 requirements during Plaintiff’s employment. As such, Defendants’ conduct constitutes a
8 willful violation of the FLSA.
9

10 64. Defendants knew that – or acted with reckless disregard as to whether –
11 their failure to pay Plaintiff the proper minimum wage rate would violate state law, and
12 Defendants were aware of the AMWA minimum wage requirements during Plaintiff’s
13 employment. As such, Defendants’ conduct constitutes a willful violation of the AMWA.
14

15 65. Defendants individually and/or through an enterprise or agent, directed and
16 exercised control over Plaintiff’s work and wages at all relevant times.
17

18 66. Due to Defendants’ illegal wage practices, Plaintiff is entitled to recover
19 from Defendants compensation for unpaid minimum and overtime wages, an additional
20 amount equal amount as liquidated damages, interest, and reasonable attorney’s fees and
21 costs of this action under 29 U.S.C. § 216(b).
22

23 67. Due to Defendants’ illegal wage practices, Plaintiff is entitled to recover
24 from Defendants compensation for unpaid wages, an additional amount equal to twice the
25 unpaid minimum wages as liquidated damages, interest, and reasonable attorney’s fees
26 and costs of this action under A.R.S § 23-363.
27

1 68. Due to Defendants' illegal wage practices, Plaintiff is entitled to recover
2 from Defendants compensation for unpaid wages, to be proven at trial, in an amount that
3 is treble the amount of his unpaid wages, plus interest thereon, and costs incurred under
4 A.R.S. § 23-355.
5

6 **COUNT ONE: FAIR LABOR STANDARDS ACT**
7 **FAILURE TO PAY OVERTIME**

8 69. Plaintiff realleges and incorporates by reference all allegations in all
9 preceding paragraphs.

10 70. Plaintiff was a non-exempt employee entitled to statutorily mandated
11 overtime wages.

12 71. In a given workweek, Defendants failed to pay one and one-half times the
13 applicable regular rate of pay for all hours worked in excess of 40 hours.
14

15 72. As a result of Defendants' failure to pay Plaintiff one and one-half times
16 the regular rate for all hours worked in excess of 40 per week in a given workweek,
17 Defendants failed and/or refused to pay Plaintiff the applicable overtime rate for all hours
18 worked for the duration of her employment, in violation of 29 U.S.C. § 207.
19

20 73. As a result of Defendants' willful failure to compensate Plaintiff the
21 applicable overtime rate for all hours worked, Defendants violated the FLSA.
22

23 74. As such, the full applicable overtime rate is owed for all hours that Plaintiff
24 worked in excess of 40 hours per week.

25 75. Defendants knew that – or acted with reckless disregard as to whether –
26 their failure to pay Plaintiff the proper overtime rate would violate federal and state law,
27

1 and Defendants were aware of the FLSA minimum wage requirements during Plaintiff's
2 employment. As such, Defendants' conduct constitutes a willful violation of the FLSA.

3 76. Defendants have and continue to willfully violate the FLSA by not paying
4 Plaintiff a wage equal to one- and one-half times the applicable regular rate of pay for all
5 time Plaintiff spent working for Defendants.
6

7 77. Plaintiff is therefore entitled to compensation one and one-half times his
8 regular rate of pay for all hours worked in excess of 40 per week at an hourly rate, to be
9 proven at trial, plus an additional equal amount as liquidated damages, together with
10 interest, costs, and reasonable attorney fees.
11

12 **WHEREFORE**, Plaintiff, Isela Quintana, respectfully requests that this Court
13 grant the following relief in Plaintiff's favor, and against Defendants:

14 A. For the Court to declare and find that the Defendants committed one of
15 more of the following acts:

16
17 i. Violated overtime wage provisions of the FLSA, 29 U.S.C. § 207(a),
18 by failing to pay proper overtime wages;

19 ii. Willfully violated overtime wage provisions of the FLSA, 29 U.S.C.
20 § 207(a) by willfully failing to pay proper overtime wages;
21

22 B. For the Court to award Plaintiff's unpaid overtime wage damages, to be
23 determined at trial;

24 C. For the Court to award compensatory damages, including liquidated
25 damages pursuant to 29 U.S.C. § 216(b), to be determined at trial;
26

27 D. For the Court to award prejudgment and post-judgment interest;

1 E. For the Court to award Plaintiff reasonable attorneys' fees and costs of the
2 action pursuant to 29 U.S.C. § 216(b) and all other causes of action set
3 forth herein;

4 F. Such other relief as this Court shall deem just and proper.
5

6 **COUNT TWO: FAIR LABOR STANDARDS ACT**
7 **FAILURE TO PAY MINIMUM WAGE**

8 78. Plaintiff realleges and incorporates by reference all allegations in all
9 preceding paragraphs.

10 79. As a result of failing to compensate Plaintiff any wages whatsoever for her
11 final approximately nine workweeks for Defendants, Defendants willfully failed or
12 refused to pay Plaintiff the FLSA-mandated minimum wage.
13

14 80. As a result of failing to compensate Plaintiff any wages whatsoever for her
15 final approximately nine workweeks for Defendants, Defendants failed and/or refused to
16 pay Plaintiff the applicable minimum wage for all hours worked, in violation of 29
17 U.S.C. § 206.
18

19 81. Defendants knew that – or acted with reckless disregard as to whether –
20 their failure to pay Plaintiff the proper minimum wage rate would violate federal and
21 state law, and Defendants were aware of the FLSA minimum wage requirements during
22 Plaintiff's employment. As such, Defendants' conduct constitutes a willful violation of
23 the FLSA.
24

25 82. Defendants' practice of willfully failing or refusing to pay Plaintiff at the
26 required minimum wage rate violated the FLSA, 29 U.S.C. § 206(a).
27

1 83. Plaintiff is therefore entitled to compensation for the full applicable
2 minimum wage at an hourly rate, to be proven at trial, plus an additional equal amount as
3 liquidated damages, together with interest, reasonable attorney's fees, and costs.

4 **WHEREFORE**, Plaintiff, Isela Quintana, respectfully requests that this Court
5 grant the following relief in Plaintiff's favor, and against Defendants:
6

7 A. For the Court to declare and find that the Defendants committed one of
8 more of the following acts:

9 i. Violated minimum wage provisions of the FLSA, 29 U.S.C. §
10 206(a), by failing to pay proper minimum wages;
11

12 ii. Willfully violated minimum wage provisions of the FLSA, 29
13 U.S.C. § 206(a) by willfully failing to pay proper minimum wages;

14 B. For the Court to award Plaintiff's unpaid minimum wage damages, to be
15 determined at trial;
16

17 C. For the Court to award compensatory damages, including liquidated
18 damages pursuant to 29 U.S.C. § 216(b), to be determined at trial;

19 D. For the Court to award prejudgment and post-judgment interest;

20 E. For the Court to award Plaintiff reasonable attorneys' fees and costs of the
21 action pursuant to 29 U.S.C. § 216(b) and all other causes of action set
22 forth herein;
23

24 F. Such other relief as this Court shall deem just and proper.
25
26
27

COUNT THREE: ARIZONA MINIMUM WAGE ACT
FAILURE TO PAY MINIMUM WAGE

84. Plaintiff realleges and incorporates by reference all allegations in all preceding paragraphs.

85. As a result of failing to compensate Plaintiff any wages whatsoever for her final approximately nine workweeks for Defendants, Defendants willfully failed or refused to pay Plaintiff the Arizona minimum wage.

86. As a result of failing to compensate Plaintiff any wages whatsoever for her final approximately nine workweeks for Defendants, Defendants failed and/or refused to pay Plaintiff the applicable minimum wage for all hours worked, in violation of A.R.S. § 23-363.

87. Defendants knew that – or acted with reckless disregard as to whether – their failure to pay Plaintiff the proper minimum wage rate would violate federal and state law, and Defendants were aware of the AMWA minimum wage requirements during Plaintiff's employment. As such, Defendants' conduct constitutes a willful violation of the AMWA.

88. Defendant's practice of willfully failing or refusing to pay Plaintiff at the required minimum wage rate violated the AMWA, A.R.S. § 23-363.

89. Plaintiff is therefore entitled to compensation for the full applicable minimum wage at an hourly rate, to be proven at trial, plus an additional amount equal to twice the underpaid wages as liquidated damages, together with interest, reasonable attorney's fees, and costs.

1 **WHEREFORE**, Plaintiff, Isela Quintana, respectfully requests that this Court
2 grant the following relief in Plaintiff's favor, and against Defendants:

3 A. For the Court to declare and find that the Defendant committed one of more
4 of the following acts:

5 i. Violated minimum wage provisions of the AMWA, A.R.S. § 23-
6 363, by failing to pay proper minimum wages;

7 ii. Willfully violated minimum wage provisions of the AMWA, A.R.S.
8 § 23-363 by willfully failing to pay proper minimum wages;

9
10 B. For the Court to award Plaintiff's unpaid minimum wage damages, to be
11 determined at trial;

12 C. For the Court to award compensatory damages, including liquidated
13 damages pursuant to A.R.S. § 23-364, to be determined at trial;

14 D. For the Court to award prejudgment and post-judgment interest;

15 E. For the Court to award Plaintiff reasonable attorneys' fees and costs of the
16 action pursuant to A.R.S. § 23-364 and all other causes of action set forth
17 herein;

18 F. Such other relief as this Court shall deem just and proper.
19

20
21 **COUNT FOUR: ARIZONA WAGE ACT**
22 **FAILURE TO PAY WAGES DUE AND OWING**
23 **DEFENDANT C.T.C CLEANING SERVICES LLC ONLY**

24 90. Plaintiff realleges and incorporates by reference all allegations in all
25 preceding paragraphs.
26
27

1 91. As a result of the allegations contained herein, Defendant C.T.C Cleaning
2 Services LLC did not compensate Plaintiff wages due and owing to her.

3 92. Defendant C.T.C Cleaning Services LLC engaged in such conduct in direct
4 violation of A.R.S. § 23-350.
5

6 93. As such, unpaid wages for such time Plaintiff worked are owed to Plaintiff
7 by Defendant C.T.C Cleaning Services LLC.

8 94. Plaintiff is therefore entitled to compensation for unpaid wages, to be
9 proven at trial, in an amount that is treble the amount of his unpaid wages, plus interest
10 thereon, and costs incurred.
11

12 **WHEREFORE**, Plaintiff, Isela Quintana, requests that this Court grant the
13 following relief in Plaintiff's favor, and against Defendant C.T.C Cleaning Services LLC:

- 14 A. For the Court to declare and find that the Defendant C.T.C Cleaning
15 Services LLC violated the unpaid wage provisions of A.R.S. § 23-350, et
16 seq., by failing to pay wages due and owing to Plaintiff;
17
- 18 B. For the Court to award an amount that is treble Plaintiff's unpaid wages
19 pursuant to A.R.S. § 23-355, in amounts to be determined at trial;
20
- 21 C. For the Court to award prejudgment and post-judgment interest on any
22 damages awarded;
23
- 24 D. For the Court to award Plaintiff's reasonable attorneys' fees and costs of
25 the action and all other causes of action set forth in this Complaint; and
26
- 27 E. Such other relief as this Court deems just and proper.

JURY TRIAL DEMAND

Plaintiff hereby demands a trial by jury on all issues so triable.

RESPECTFULLY SUBMITTED this 18th day of November, 2022.

BENDAU & BENDAU PLLC

By: /s/ Clifford P. Bendau, II

Clifford P. Bendau, II

Christopher J. Bendau

Attorneys for Plaintiff

VERIFICATION

Plaintiff, Isela Quintana, declares under penalty of perjury that he has read the foregoing Verified Complaint and is familiar with the contents thereof. The matters asserted therein are true and based on her personal knowledge, except as to those matters stated upon information and belief, and, as to those matters, she believes them to be true.

Isela Quintana

Jesus Isela Quintana sinaloa (Nov 18, 2022 15:05 MST)

Isela Quintana